

DECISION



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**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-218134.2

DATE: February 25, 1985

MATTER OF: Richard Hoffman Corporation--Reconsideration

DIGEST:

Prior decision denying complaint concerning procurement under grant is affirmed where complainant only reiterates legal argument already considered and record does not support alleged factual error in original decision.

Richard Hoffman Corporation requests reconsideration of our decision Richard Hoffman Corporation, B-216308, Jan. 23, 1985, 85-1 CPD ¶ ___, in which we denied Hoffman's complaint concerning the award of a contract to Alton United, Inc., by the Regional Transit Authority (RTA) of Chicago, Illinois. The contract was for a construction and building renovation project funded in part by a grant administered by the United States Department of Transportation, Urban Mass Transportation Administration (UMTA). We affirm the prior decision.

In its original complaint, Hoffman contended that Alton United's bid was nonresponsive for failure to meet certain minority business enterprise (MBE) requirements in the solicitation. We denied the complaint on grounds that the MBE requirements involved a matter of bidder responsibility and thus that it was proper for Alton United to submit further information after bid opening bearing on its compliance with the MBE requirements.

In its request for reconsideration Hoffman first renews its original argument, focusing on the fact that the MBE requirements were characterized as a matter of responsiveness both in the solicitation and by the contracting officer at a conference held before bid opening. We have already addressed this contention. As part of the lengthy discussion in our original decision of the proper characterization of the MBE requirements,


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we specifically stated that the contracting agency cannot make a matter of responsibility into a question of responsiveness by the terms of the solicitation. See Paul N. Howard Co., B-199145, Nov. 28, 1980, 80-2 CPD ¶ 399, aff'd, 60 Comp. Gen. 606 (1981), 81-2 CPD ¶ 42.

Hoffman next contends that the supplemental MBE information was submitted by Alton United after the contract was awarded, not before award as stated in our decision. We find no support in the record for this contention. To the contrary, the record shows that after bid opening on April 23, 1984, Alton United submitted the additional information to RTA by letter dated April 24. Alton United's letter was stamped as received by RTA's MBE department on April 27, well before RTA notified Hoffman, by letter dated June 15, of its intention to make award to Alton United. In fact, according to an August 24 letter from UMTA to RTA, award had been withheld until that time pending resolution of Hoffman's protest to UMTA.

Aside from reiterating its original position, Hoffman has neither offered any evidence demonstrating a legal or factual error in our original decision, nor presented any information not previously considered. Accordingly, we find no basis upon which to modify our decision. See Sanders Co. Plumbing and Heating--Reconsideration, B-196075.3, Mar. 25, 1980, 80-1 CPD ¶ 217.

The prior decision is affirmed.


Acting Comptroller General
of the United States